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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,754	02/14/2001	Michael R. Miller	150-123CIP01	2168

7590 06/10/2004

MR. WILLIAM FRITZ  
NEOMEDIA TECHNOLOGIES, INC.  
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FORT MYERS, TX 33901-3559

EXAMINER

CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/783,754

Applicant(s)

MILLER ET AL.

Examiner

Donald L. Champagne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Support of Registered Attorney or Agent***

1. While an inventor may prosecute the application, it is the USPTO's experience that lack of prosecution experience usually acts as a liability in affording the maximum protection for the invention disclosed. The Office recommends that applicant consider securing the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution.
2. The following sources are available for selecting an Attorney or agent.
  - (A) Applicant can search the roster of attorneys and agents at the Office's home page, <http://www.uspto.gov>. Click on "Site Index" at the top of the home page. Then, in the alphabetical list, click on "Agent and Attorney Roster". Then click on "Attorney/Agent Search".
  - (B) Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

### ***MPEP***

3. All the US patent laws and rules of examination are in the *Manual of Patent Examining Procedure*, 8<sup>th</sup> edition, which is available through the Office's web site, <http://www.uspto.gov>. Click on "Site Index" at the top of the home page. Then, in the alphabetical list, click on "Manual of Patent Examining Procedure (MPEP) Information Page". The next page gives instructions for viewing individual chapters and parts of the Appendix in .pdf format and for purchasing a paper copy of the MPEP.

### ***Certificate of Mailing***

4. It is called to applicant's attention that if a communication is deposited with the U. S. Postal Service and mailed to the Office by First Class Mail before the reply time has expired, applicant may submit the reply with a "Certificate of Mailing" which merely asserts that the

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reply is being mailed on a given date. So mailed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
on \_\_\_\_\_ (date).

Typed or printed name of person signing this certificate

Signature \_\_\_\_\_

Date \_\_\_\_\_

Additional useful information on communicating with the Office is contained in 37 CFR 1.10 (*Patent Rules, Appendix R of the MPEP*).

### ***Claim Objections***

5. Claims 5, 12 and 19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims add only nonfunctional descriptive matter. See MPEP 2106.IV.B.1(b), first paragraph. US patents are available only for technological distinctions. Limitations as to the kind of product information are not effective.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being obvious over Cragun et al. (US005804803A) in view of Kepecs (US006009411A).
8. Cragun et al. teaches (independent claims 1, 8 and 15) a method, computer program product and system for providing product information to a user, the method comprising the steps of: (a) receiving a product identifier associated with a particular product (*code 117*) from a client device of a user (*client computer 102*, col. 5 lines 6-13); (b) searching a data store (*product database 136*) for matching the product identifier with information about the product (col. 8 lines 23-30); [(c) and (d)] storing the product information on a WWW page, which reads on a network data site (); and allowing the user to access the product information on the network data site using a user identifier (*customer ID 210*, col. 7 lines 60-63 and col. 8 lines 63-65).
9. Cragun et al. does not teach that the user identifier (*customer ID 210*) is obtained anonymously. Kepecs teaches that the user identifier (*unique key*) is obtained anonymously (col. 2 lines 5-6 and 34-35). Because Kepecs teaches (col. 1 lines 61-67) that some customers do not want to provide personal information, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Kepecs to those of Cragun et al.
10. Cragun et al. also teaches at the citations given above claims 3-4, 6-7, 10-11, 13-14, 17-18 and 20-21.
11. Cragun et al. also teaches: claims 2, 9 and 16 (col. line 9) and claims 5, 12 and 19 (col. 1 lines 13-19).

***Special Note for Applicant Pro se<sup>1</sup>***

12. In this Office action the examiner has judged the claims on their face (prima facie) to be non-patentable, because they are taught by or obvious from Cragun et al. and Kepecs. If applicant disagrees with the examiner's judgment, applicant should respond by filing arguments explaining, as precisely as possible, where the rejection above is wrong. In doing so applicant should recognize that the entire reference is available to support the rejection, not just the sections cited above by the examiner. Applicant should also recognize that MPEP § 2111 and 2111.01 require the examiner to give claims language its "broadest

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reasonable interpretation" unless applicant has provided a "clear definition" of the terms in the specification. Hence, if applicant believes the examiner's implicit interpretation is wrong, applicant should explain where a "clear definition" of the term(s) appears in the specification.

13. Applicant may also amend the claims to overcome the rejection. Applicant can do so in the current application only if the amending matter is presented in the current application. A "new matter" rejection will result if the examiner cannot find the material in the specification. Hence, it is to applicant's advantage to applicant to point out in the reply where in the disclosure the amending material appears. Amendments must be made consistent with the requirements of 37 CFR § 1.52, which is in Appendix R of the MPEP cited above.
14. Applicant is entitled to contact the examiner to schedule a half-hour "interview" with the examiner to discuss the application, which may be done by telephone or in person, as applicant chooses.

### ***Conclusion***

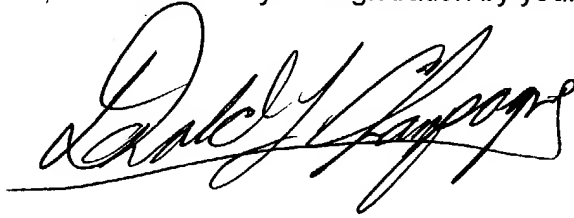
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Champagne whose telephone number is 703-308-3331. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at [donald.champagne@uspto.gov](mailto:donald.champagne@uspto.gov), and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 703-746-5536.
16. The examiner's supervisor, Eric Stamber, can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-930606. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.
17. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, [www.uspto.gov](http://www.uspto.gov).

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<sup>1</sup> An applicant representing him or her self, without a patent attorney or agent.

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At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

A handwritten signature in black ink, appearing to read "Donald L. Champagne". The signature is fluid and cursive, with a long horizontal stroke at the end.

Donald L. Champagne  
Examiner  
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3 June 2004